

RENO OFFICE  
50 West Liberty Street, Suite 1100  
Reno, NV 89501  
T: 775.852.3900  
F: 775.327.2011

KAEMPFER

CROWELL

SEVERIN A. CARLSON  
[scarlson@kcnvlaw.com](mailto:scarlson@kcnvlaw.com)  
RENO: 775.884.8317  
LAS VEGAS: 702.792.7092

July 30, 2024

**VIA EMAIL**

The Hon. Hillary Schieve ([schieveh@reno.gov](mailto:schieveh@reno.gov))  
The Hon. Jenny Brekhus ([brekhusj@reno.gov](mailto:brekhusj@reno.gov))  
The Hon. Naomi Duerr ([duerrn@reno.gov](mailto:duerrn@reno.gov))  
The Hon. Meghan Ebert ([ebertm@reno.gov](mailto:ebertm@reno.gov))  
The Hon. Miguel Martinez ([martinezm@reno.gov](mailto:martinezm@reno.gov))  
The Hon. Devon Reese ([reesed@reno.gov](mailto:reesed@reno.gov))  
The Hon. Kathleen Taylor ([taylork@reno.gov](mailto:taylork@reno.gov))  
RENO CITY HALL  
1 E. 1<sup>st</sup> Street, 15<sup>th</sup> Floor  
Reno, NV 89501

***Re: Mater Academy MUP24-00010 Tied Vote of Appeal by Reno City Council***

Dear Mayor Schieve and Council Members:

We represent XL Charter Development (“Applicant”) with respect to the Minor Conditional Use Permit (“MCUP”) for MANN-Mater Academy Lemmon Valley Campus (MUP24-00010) (the “Application”) and the appeals of the Administrator’s determination granting the Application, filed by the Washoe County School District (“WCSD”), the Nevada State Education Association (“NSEA”), the Washoe Education Association (“WEA”), Ashley Robbins (“Robbins”), and Erika Bowling (“Bowling”) (WCSD, NSEA, WEA, Robbins and Bowling will be collectively referred to as the “Appellants” and their appeals will be referred to as an “Appeal” or collectively as the “Appeals”). This letter addresses the main issues discussed during the City Council hearing on the Appeals, held on July 24, 2024. We request that this letter be placed in the record on this matter, which will come for hearing before the City Council on Wednesday, July 31, 2024, as a result of the 3-3 tie vote on July 24. We further request you deny the Appeals in their entirety, as the Administrator based its decision to grant the MCUP on substantial evidence and did not abuse its discretion.

**BACKGROUND**

Mater Academy is a tuition-free public charter school accountable to the State and State Public Charter School Authority under NRS 388A. As a public charter school, student enrollment is a fair and open process for all families. Additionally, all Mater Academy teachers hold a current Nevada Teacher’s License, and its Board of Directors consists of members of the public, including educators, parents, and other professionals. Claims that Mater Academy is a “for-profit school” are incorrect; the relationship between Mater Academy and the Applicant provides cost-efficient development of a state-of-the-art school. As exemplified by Mater Academy’s 3-Star elementary

and middle schools, support for this project gives parents a considerable choice on their children's education.

The Applicant first met with City Staff to discuss the project during its Pre-Planning Application meeting on November 13, 2023. Two days later, Applicant submitted a minor conditional use permit application to allow for a new primary/secondary school on split SF-3/GC zoning, adjacent to residential zoning ("Proposed Use"). The new primary/secondary school would be developed on an undeveloped ±10.62-acre parcel at the southeast corner of North Hills Boulevard and Beckwourth Drive (the "Site"). Although a minor conditional use permit typically takes approximately 30 days to process, this Application took approximately six months, wherein the Applicant and City Staff worked to improve the project and to mitigate its impacts so as to satisfy the City's findings requirements. Finally, on June 3, 2024 the Administrator approved the MCUP with twenty-four (24) conditions.

### **APPEALS**

On or about July 11, 2024, Applicant was informed that the Appellants filed their Appeals challenging the Administrator's approval of the MCUP, and Applicant received copies of the written appeals on July 18<sup>th</sup>. While WCSA's Appeal only provided vague complaints, the four other Appeals mostly raised the same concerns: traffic and safety, incompatible zoning, lack of public hearing, and economic hardship. Each of these points are discussed in turn below.

### **RESPONSE**

#### **I. TRAFFIC MITIGATION**

Applicant and City Staff have worked diligently to assure any and all traffic concerns are mitigated, thereby providing a safe environment for students, parents, staff, and the general public. When preparing the Application, the Applicant consulted with Lochsa Engineering's traffic engineers to advise on the suitability of a school at the Site, and conduct a traffic study. The traffic study submitted to City Staff included a traffic analysis and recommendations to mitigate traffic. After City Engineers reviewed the study, the Applicant and City Staff agreed on implementing several traffic elements such as School Zone overhead mast arm flashers, Rectangular Rapid Flashing Beacons at crosswalks, sidewalk additions with overhead lighting, and on-site bike storage. Applicant also carefully designed the Site with a 148 car on-site circulation loop with two primary points of ingress/egress along North Hills Boulevard to provide efficient pickup/dropoff queuing to take cars off the public road. As part of the Administrator's twenty-four (24) conditions of approval, Applicant must install all off-site improvements recommended in the traffic study before issuance of a certificate of occupancy for Phase I (Condition No. 22) which includes extending the existing two way left turn lane on North Hills Drive and constructing an exclusive right turn lawn for the northern driveway. Additionally, the Applicant's bell times must be separated by 30 minutes between the elementary, middle, and high school, in addition to a 30 minute offset from Alice Smith Elementary School (Condition No. 20).

Still, the Appellants argue if the school were built, the Level of Service at local intersections, particularly North Hills/Beckwourth Drive, would cause severe traffic delays. In their justification, the Appellants cite the traffic study's 2043 Projected "F" rated Level of Service at North Hills/Beckwourth Drive. However, the Appellants failed to adequately compare this projection with another projected Level of Service if the school was not developed, which is still "F". When comparing the traffic study's 2024 projections with and without the school, the school's addition only causes an increased delay of about 60 seconds for AM hours and 20 seconds for PM hours. Therefore, only considering the Level of Service rating at local intersections is too narrow, and should instead be viewed in its totality, as described in detail by Ted Egerton, P.E., during last Wednesday's hearing. With that being said, the Applicant would accept an additional condition of approval imposed by the City Council to construct a traffic light at the intersection of North Hills and Beckwourth Drive. Based on additional analysis conducted by Lochsa Engineering, the addition of this traffic light would improve the level of service at this intersection and surrounding areas. We have enclosed a revised table depicting the new level of service based on the installation of the traffic signal described above.

Lastly, the Appellants mentioned their concerns for the safety of students and staff. While Applicant shares these same concerns demonstrated by its willingness to implement its traffic mitigation plans, the Appellants did not otherwise provide details on how local traffic is unsafe besides reckless drivers, an ever-present issue. As such, any traffic concerns within Applicant's control, as mentioned by the Appellants, have been sufficiently considered, improved, and mitigated by the conditions imposed within the Administrator's approval of the MCUP.

## II. ZONING

The Site has split zoning with the primary school located in the SF-3 zoning district and the secondary school located in the GC zoning district. Split zoning is not uncommon in the City of Reno and the City has routinely allowed development to occur on split zoned parcels. Furthermore, where a use or uses are allowed within the split zoning, a zoning map amendment is not required. Specifically, under Reno Municipal Code ("RMC"), a primary school is allowed in SF-3 zoning with a minor conditional use permit, and a secondary school is allowed in GC zoning with a minor conditional use permit. RMC 18.03.206. A primary school includes a "facility or area for kindergarten and elementary education supported by a public, church, or parish organization." RMC 18.09, Article 3.

Here, the Appellants argue the Site's zoning is improper for the Proposed Use because part of the elementary/middle school is located in GC zoning. While Appellants are correct that an elementary school is prohibited in GC zoning, City Staff addressed this specific issue by adding Condition No. 5: *Prior to the issuance of any building permits, the applicant shall demonstrate that all components of the primary school be located on the SF-3 parcel.* Accordingly, with the elementary school in SF-3, the high school in GC, and the middle school in both SF-3/GC as allowed with a MCUP, the Proposed Use is consistent with RMC zoning.

Lastly, the Appellants argue the Site is improper for a school anticipating approximately

1,500 students because the Site is only ±10.62-acres. However, the Appellants did not cite, nor can they cite to any statute, law, or other rule supporting this conclusion. In fact, the primary limitation on student population under NRS 388.700 considers teacher-pupil ratios for some lower grade levels, specifically exempting charter schools. NRS 388.700(8). As such, the Appellants fail to provide any legal basis supporting the Site is insufficient for the expected student population, or otherwise how the project is inconsistent with RMC zoning.

### **III. MCUP ADMINISTRATIVE PROCESS**

The Appellants also raised issue with the lack of public hearing to voice concerns of the Application. Despite their frustration, a minor conditional use permit is not subject to any public hearings, including with a Neighborhood Advisory Board, the Planning Commission, or the City Council. *See* RMC 18.08, Article 2, Table 8-1 Summary Table of Review Procedures. Rather, an applicant is required to post on-site notices, which the Applicant has placed on the Site for approximately six months. Further, a MCUP requires notice of the application to be mailed to a minimum of 30 property owners within 750 feet of the project. In this case notice was sent to over 500 property owners. Additionally, this Application was circulated by City Staff to over 1000 local recipients such as other City of Reno and regional agencies, including the WCSD. Applicant and City Staff adhered to the provisions of the Reno Municipal Code in processing an application for a minor conditional use permit.

### **IV. STANDING AND ECONOMIC HARDSHIP**

A written notice of appeal may be filed by “any person or entity aggrieved” by an administrator’s decision. The appeal must “briefly specify the grounds of the appeal.” RMC 18.08.307(j)(1)(a)&(b). An “aggrieved person” is “one whose personal right or right of property is adversely and substantially affected by the action of a discretionary body.” RMC 18.09 Article 4.

Here, the Appellants have not demonstrated their personal right or right of property has been adversely and substantially affected by the Administrator’s approval of the MCUP. Instead, the Appellants argue their economic interests will be harmed by a new charter school along with the other concerns already discussed. However, economic hardship from competition does not provide grounds for appeal. If it were, any local business owner could appeal an administrator’s decision if it wanted to delay or prevent a similar service opening nearby. Although the Appellants argue a charter school will take away students, teachers, and funds from local public schools, Mater Academy is allowed to compete under Nevada law as a public charter school to provide parents options when selecting a path for their children’s education.

### **CONCLUSION**

We request that you deny the Appellants’ Appeals in their entirety and uphold the Administrator’s decision to approve the MCUP and its twenty-four (24) conditions of approval, as the decision was based on substantial evidence and there has been no showing of an abuse of

discretion. As stated above, the Applicant would agree to an additional condition of approval wherein it would construct a traffic signal at the intersection of North Hill and Beckwourth.

Cordially,

KAEMPFER CROWELL



Severin A. Carlson

SAC/krl

cc: Jackie Bryant, Interim City Manager (bryantj@reno.gov)  
Karl Hall, City Attorney (hallk@reno.gov)  
Mikki Huntsman, City Clerk (huntsmanm@reno.gov)  
Mike Railey, Planning Manager (raileym@reno.gov)  
Client

**2043 Background and Project Intersection Level of Service**

INTERSECTION	CONTROL	AM PEAK HOUR		PM BELL		PM	
		DELAY	LOS	DELAY	LOS	DELAY	LOS
North Hills/Beckwourth Drive	SIGNAL	19.8	B	18.4	B	22.9	C
EASTBOUND		47.4	D	51.2	D	43.0	D
WESTBOUND		52.9	D	54.3	D	53.7	D
NORTHBOUND		19.0	B	15.0	B	21.2	C
SOUTHBOUND		12.2	B	9.5	A	12.7	B